

D R A F T

April 13, 2010

Senator Ben Cardin
Senate Hart Office Building
Room 509
Washington, D.C. 20510

Senator Barbara Mikulski
Senate Hart Office Building
Room 503
Washington, D.C. 20510

Congressman Chris Van Hollen
Longworth House Office Building
Room 1701
Washington, D.C. 20515

RE: National Broadband Plan/Rights-of-Way Management/Chapter 6: Infrastructure

Dear Senator/Congressman::

The City of Rockville supports the increased deployment of broadband. In fact, for more than a decade, the City has had an approved policy that encourages competition and the deployment of advanced telecommunication facilities and services. At the same time, the policy is balanced by an obligation for responsible management of City's rights-of-way (ROW) and protection of other public interests.

This policy has served the community and telecommunications industry well, as we have entered into ROW use agreements with ten fiber/telecommunications companies and franchise agreements with two cable/broadband providers. All of the rights-of-way use agreements, with one exception, have been negotiated smoothly and relatively quickly, with the companies agreeing to the City's standard agreement with only slight modifications. The one exception was resolved with the development of an alternate cost-based permit fee model for citywide projects, taking into consideration economies of scale.

As you are aware, the issue of local ROW use compensation and management has recently emerged on the federal level as part of the FCC's National Broadband Plan that was presented to Congress. We are pleased with and support the FCC's recommendation for an intergovernmental task force of local, state, federal, and tribal representatives to develop best practice guidelines.

We emphasize our support of developing federal *guidelines*. We do not support any effort that may arise to develop and enact federal mandates or rules restricting local government compensation for and management of its own rights-of-way and other property, especially for commercial for-profit use. We ask for your leadership in ensuring that any federal efforts are in the form of guidelines and that they reflect the needs and interests of the local governments that own and maintain the rights-of-way.

The local rights-of-way are a limited and valuable resource held in the public trust by local governments. As such, we the local elected officials have a responsibility to our constituents to determine fair and reasonable ROW compensation and management. We believe the intergovernmental task force is a reasonable way to develop guidance in these matters as a means to encourage the deployment of broadband facilities. However, we also believe that these guidelines must be consistent with federal law and respect the duties of the property owners, local government. The public interest must not take a back seat to the private interest of for-profit companies, and local government should not be forced to give away public property to private companies. We recognize that there is a public good in the expansion of broadband development, and, as shown above, we work to encourage that. However, we will resist, and we ask for your leadership in resisting, any attempt to require local taxpayers to subsidize individual private companies.

The National Association of Telecommunications Officers and Advisors and other organizations representing local governments and our constituents have developed materials and supporting information related to the upcoming discussions. We will be happy to share this information with you and your staff, and to further discuss this matter with you.

Sincerely,

Rockville Mayor and Council (signatures will be inserted here if letter is approved).

cc: Scott Ullery, City Manager
Mike Cannon, Chief Information Officer
Doug Breisch, Telecommunications & IT Operations Manager
Craig Simoneau, Public Works Director
Michael Galano, Holland and Knight